



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 5748-99

9 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 17 May 1971 at age 19. The record shows that during 1972 you were convicted by a summary court-martial and a special court-martial. Your offenses were two periods of unauthorized absence totaling about 83 days, and the theft of three wallets from the exchange.

On 9 May 1974 you received nonjudicial punishment for an unauthorized absence of about 12 days. On 22 July 1974 you began another period of unauthorized absence and remained in that status until you were apprehended by civil authorities on 17 June 1976 on a charge of theft. Subsequently, you were convicted by civil authorities and were sentenced to one year in prison.

After Headquarters Marine Corps became aware of your whereabouts, they began processing you for discharge by reason of misconduct due to conviction by civil authorities. In connection with this processing, you elected to waive your right to have your case heard by an administrative discharge board. On 17 January 1977 the discharge authority approved the recommendation of your commanding officer that you be discharged for misconduct with an undesirable discharge. You were so discharged on 27 January

1977.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity, limited education and the documentation you submitted showing that you have been steadily employed for over 15 years. The Board also considered your contention, in effect, that family problems led to your inability to adjust to the Marine Corps. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your record of misconduct, and especially the fact that you were an unauthorized absentee for nearly two years prior to your apprehension, and your conviction by civil authorities of a serious offense. There is no evidence in the record, and you have submitted none, showing that you had family problems. However, the Board believed that even if you did have such problems they would be insufficient to excuse or mitigate your misconduct. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director